

STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
BOARD MEETING

FINAL MINUTES

AUGUST 1-2, 2019

(KEY: MSC = MOTION: MADE, SECOND: CARRIED
MSF = MOTION: MADE, SECOND: FAILED)

THE REGULAR MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 9:30 A.M. FRIDAY AUGUST 1, 2019 IN THE MEETING ROOM AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE, 1365 N. ORCHARD STREET ROOM 172 BOISE, IDAHO 83706. MEMBERS BOB BAROWSKY (CHAIRMAN), GEORGE MCQUISTON, LOUISE STARK AND WAYNE HUNSUCKER WERE PRESENT. ALSO PRESENT WERE EXECUTIVE DIRECTOR LORI THOMASON, BOARD ATTORNEY ROGER HALES, OFFICE SUPERVISOR AMANDA HARPER AND EDUCATION AND ENFORCEMENT CHIEF RANDY WADLEY. BOARD MEMBER TOM LONG WAS NOT PRESENT.

SALMON CHALLIS – Celina Moreno, the Salmon Challis Permit Administrator, introduced herself and gave an update on relative issues. **Priority Use Reviews** – Ms. Moreno said that priority use reviews have been ongoing, but for the Middle Fork and Main Salmon this will be the first year a priority use review will happen. She pointed out that she will need to do one review in the Middle Fork and eleven on the Main Salmon. **New Business Sales** – Ms. Moreno stated that the goal for the Salmon Challis Office is to complete all new business sale applications within sixty days. She said they have come up with a new packet for the applicants to complete which will help streamline the process. She is meeting with all new outfitters to go over their permits line by line. She hopes this will help applicants know what they are signing up for, and to start a great working relationship. **Expired Permits** – Ms. Moreno explained that after ten years priority use permits expire and need to be renewed. She said that a NEPA is required at that ten year renewal. There are 19 permits that are due this year for the ten year review. She is also working on five new outfitter permits that have completed their two-year probationary period. She will look to make sure each outfitter is in good standing with paying fees, and that the public has been satisfied with the experience provided by the outfitter. Once reviewed, and if in good standing, the outfitter will be issued an eight-year permit which finishes out the ten-year permit period. **Outfitter and Guide Trail Stewardship Credit Pilot Program** – Ms. Moreno will be working on a nationwide program to look at how the trails in Idaho are being maintained. As outfitters using the trails, this program incentivizes trail maintenance in exchange for either land use fees being waived or discounted on some level depending on the level of maintenance being done. She said there have been several outfitters who expressing interest in helping with this program. **Stoddard Pack Bridge** – Ms. Moreno said that in 2020 after highwater, the repair to the Stoddard Pack Bridge is set to begin. It is estimated to be completed by 2021. She reminded the Board that this is a Federal Highway Administration (FHA) project. They will be the lead for the project and will be in charge of awarding it. She said NEPA was completed for the project as well as Section 7. The new bridge will be slightly different than the original Stoddard Pack Bridge. She said the big change is that the South Tower will be moved 100 feet to the South because it was realized that with the move the likelihood of it getting rock fall damage would decrease. Another change is that the bridge will be asymmetrical. **Outfitter and Guides One Time Use Authorization** – From the Forest Service standpoint, doing a one-time use authorization is an easy process. It just requires an amendment to the outfitters permit. Ms. Moreno suggested that instead of requiring the outfitter to become a guide under the outfitters who are licensed in the area being used, to use the OG-23.2 One Time Hazardous Excursion

Outside Outfitter's Operating Area. She stated that some concerns she sees when the outfitter becomes a guide under the other outfitter is who takes on the liability, and it could also impact the outfitter's user days. The Board members agreed that using the OG-23.2 helps maintain liability and is a much easier process.

Stan Potts Area – Board member Louise Stark asked Ms. Moreno to update the Board on the area that was previously outfitted by Stan Potts. Ms. Moreno said that she would need to look into that area to find out the status. **MF1 and MF2** – Director Lori Thomason informed Ms. Moreno that during the Rules reauthorization, the Board has put in the temporary rule, which is open for public comments, to combine the river stretches of MF1 and MF2.

BLM Rules Discussion – Monica Zimmerman and Chuck Patterson joined the meeting via conference call. A discussion took place for rules recommendations on the SS1, SN2, SN3, BL1, and Bear River. The Board said they were appreciative of the proposals that were made by the BLM and will continue to work through these Rules recommendations over the next few years.

DIRECTOR'S REPORT – Budget – Director Lori Thomason informed the Board that the budget for fiscal year 2019 was \$610,900. The total spent was \$580,491, which left a turn back of \$30,409 to the free fund balance. She said the free fund balance as of July 31, 2019 is \$534,241. She stated that the revenue brought in is below the spending authority, which is slowly eating away at that balance. She said that other dedicated fund agencies keep between one to one and a half years' worth of operating expenses in their free fund account. **Lease Contract** – Ms. Thomason said Orchard Partners, IOGLB's landlord, is currently in talks with the State of Idaho Leasing Program on how to draft up IOGLB's next five-year facility lease. She stated that the current building IOGLB is in is might be torn down in the next five years, but Orchard Partners is willing to keep the lease contract at the same rate for the next five years, even though the current rate for leasing is more than double what IOGLB is currently being charged. She said that the State of Idaho and Orchard Partners are working on terminology for the lease, and until it is complete IOGLB is on a month to month payment plan. **Reports** – Director Thomason informed the Board that she has submitted the yearly Strategic Plan and Performance Report to the Division of Financial Management (DFM) and Legislative Services Office (LSO).

OFFICE SUPERVISOR'S REPORT – Office Supervisor Amanda Harper reviewed the application for Idaho Angling Services LLC who has made application to add Mackay Reservoir as an additional operating area and expand their operating area on the Big Lost River to include the river upstream to Mackay Reservoir. Ms. Harper stated that the Idaho Department of Fish and Game (IDFG) Comment form stated that there would not be any conflict on the Mackay Reservoir itself. However the additional area on the Big Lost River could cause user conflict due to limited and congested access points, beds drying up, and low fish due to dried up beds. The comment form recommended that IOGLB limit access to the river from only private land or establishing walk and wade fishing entry points at pre-determined locations. She also let the Board know that the permit administrator had originally signed off on the application, but after receiving the IDFG Comment form, they said the concerns expressed were valid. Ms. Harper asked the Board how they would like to proceed with this application. Board Attorney Hales advised that due to how IDAPA Rule 58 reads, it would be up to the permit administrator to review the IDFG Comment form and if at that time they decide a restriction needs to be placed on the area description, IOGLB will put that on the license. **MSC (MOTION: HUNSUCKER; SECOND: MCQUISTON; AYES – MCQUISTON, STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) GRANT THE REQUEST ON THE RESERVOIR AND GRANT THE REQUEST AS IT RELATES TO THE RIVERS THAT IDAHO ANGLING SERVICES LLC CAN CONTINUE WALK AND WADE FISHING WITH THE ADDITIONAL AREA ADDED PENDING ANY RESTRICTIONS BY THE PERMIT ADMINISTRATOR.**

EDUCATION AND ENFORCEMENT CHIEF'S REPORT – Education and Enforcement Chief Randy Wadley reported the current number of complaints and case investigations so far this year. **Cases and Investigations** – 50 total investigations so far for 2019. Chief Wadley stated that on July 9th, 2019, Fish and Game did an emphasis patrol on the South Fork of the Snake River and asked that IOGLB be involved. Chief Wadley sent enforcement officer Randy White. Mr. White stayed for a couple more days after the emphasis patrol and did 55 inspections on the boats and guides. Mr. White did not issue any citations but did issue one warning for an outfitted boat not having their insignia on it.

Education and Enforcement Chief Wadley asked the Board to accept the following fine payment:

IOGLB Enforcement Case: Dylan T. Edwards for a Fish and Game conviction in Bonner County, Violation of Idaho Fish and Game Rules/Regulations, Fishing/Hunt Trap Without a License and Unlawful Use of Game Parts for Baiting Purposes. **MSC (MOTION: STARK; SECOND: HUNSUCKER; AYES: STARK, MCQUISTON, HUNSUCKER AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$500 FINE FROM DYLAN T EDWARDS.**

IOGLB Enforcement Case: Jaason N. Pruett for a Fish and Game convictions in Wyoming, Violation of Hunting of Shed Horn in National Park and Pettit Theft Stealing/Taking of Deer Antlers from bed of pickup (US Park Service Vehicle). **MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES: STARK, MCQUISTON, HUNSUCKER AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$500 FINE FROM JAASON N. PRUETT.**

IOGLB Enforcement Case: Justin R. Adams for a conviction in Teton County, Violation a misdemeanor conviction for Possession of a Controlled Substance and Driving a Motor Vehicle in a Reckless Manner. **MSC (MOTION: STARK; SECOND: MCQUISTON; AYES: STARK, MCQUISTON, HUNSUCKER AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$250 FINE FROM JUSTIN R. ADAMS.**

IOGLB Enforcement Case: Cullen T. Cox for a conviction in Idaho County, Violation of two (2) misdemeanor convictions of Possession of Drug Paraphernalia with intent to Use and a misdemeanor conviction of for Possession of a Controlled Substance with Intent to Use. **MSC (MOTION: MCQUISTON; SECOND: HUNSUCKER; AYES: STARK, MCQUISTON, HUNSUCKER AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$400 FINE FROM CULLEN T. COX.**

IOGLB Enforcement Case: Kenton R. Mueller for a conviction in Blaine County, Violation of misdemeanor conviction Driving Motor Vehicle Under the Influence (3rd conviction). **MSC (MOTION: STARK; SECOND: HUNSUCKER; AYES: STARK, HUNSUCKER AND BAROWSKY; NAYES: - MCQUISTON) TO ACCEPT THE \$250 FINE FROM KENTON R. MUELLER.**

IOGLB Enforcement Case: Wyatt J. Judge for a conviction in Latah County, Violation of misdemeanor conviction of Driving Motor Vehicle in Reckless Manner (Accident Involved). **MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES: STARK, HUNSUCKER, MCQUISTON AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$250 FINE FROM WYATT J JUDGE.**

Meeting recessed for lunch at 12:00 p.m. Meeting reconvened at 1:30 p.m. with all listed above present.

BOARD ATTORNEY UPDATES – Litigation – Attorney Roger Hales stated that concerning Allreds Adventures LLC vs. the Idaho Outfitters and Guides Licensing Board, Allreds Adventures LLC's attorney has been advised of the rejection of its counteroffer. Mr. Hales said that Allreds Adventures LLC still has time to file an appeal. **Temporary Rule** – Mr. Hales reminded that there is a temporary rule in place to

designate allocated tags based on the new law change. He stated that the temporary rule on allocated tags is included in the negotiated rule making hearing that is scheduled for tomorrow's meeting, and the Board is to make a decision and take a position at a future meeting for a pending rule.

RULES AND STATUTE CHANGES – Statute Changes - Board Attorney Joan Callahan pointed out that two different legislative ideas were submitted by the Board for the upcoming legislative session. She stated that the first statute change that was submitted was regarding a fee increase for the Board, and the second was for the designation of allocated tags. She stated that submitting an idea does not obligate the Board to carry that Statute change but leaves the option out there. She said that IOGLB staff and the attorneys met with the Division of Financial Management (DFM) and the Governor's Office who had recommendations and requests for the Board on both of the statutory changes. She said the recommendation from those agencies is to put the IOGLB fee structure in rule and have a general statement in statute referencing fees rather than putting the specific fee amount in the statute. She said that the Governor's office and DFM have strongly suggested that the Board continue keeping the option open to bring legislative changes related to the current statute in reference to the controlled hunt language in the event the IOGA does not bring a legislative proposal that addresses the Board's concerns. The changes they recommended were not policy changes to the statute, rather technical language that has caused the Board concern in the past to the "deer and elk" language from House Bill 192 and better language that defines what is being compared for use in controlled hunts. The language deadline for State agencies is August 16, 2019. **Rule Changes** – Attorney Callahan said currently the Board has a temporary and proposed set of rules, which is the full IOGLB chapter of rules. These rules were reauthorized by the Governor so agencies could continue to operate, since all the State's rules expired on June 30, 2019. She stated that the Board had also previously published an intent to negotiate rules related to the allocated tag rules to help implement the new statute changes. The temporary rule that related to the allocated tag use was carried forward into the current temporary and proposed reauthorized set of rules. So, the Board now just has one rulemaking docket that includes reauthorization and the designation of allocated tags. She informed the Board that DFM has encouraged the agencies to continue to work to eliminate, simplify, and update rules under the Red Tape Reduction Act and the Licensing Freedom Act to try and incorporate all the recommendations into the reauthorization set for the pending rule set. She stated the last chance to make changes to language is October 16th, however the changes that are included need to be a logical outgrowth of what was in the original reauthorization and notice. She said that the Board has the option to hold an additional public hearing that would be noticed in the September bulletin. This additional hearing could provide notice of specific, substantial changes items that are being proposed for the pending rule. The Board agreed to hold another public hearing on September 11, 2019.

ALLOCATION UPDATE – Office Staff Susan Knappek summarized the final designated allocated tags by zone that were used.

FINANCIAL REPORT – The Board reviewed the financial report for May and June 2019. **MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES – MCQUISTON, STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE FINANCIAL REPORT AS PRESENTED.**

BOAT LIMITS ON THE CLEARWATER RIVER – Joe Dupont, the Clearwater Region Fisheries Regional Manager, joined the meeting via conference call. A discussion took place about congestion on the Clearwater River. He asked the Board if there were any ideas or options on how to help with the congestion. Board Attorney Roger Hales suggested that Mr. Dupont gather the outfitters licensed on the Clearwater and see if they can come up with a consensus on outfitter boat use to help ease the congestion.

CONSENT AGENDA – The Board reviewed the Consent Agenda. **MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES – HUNSUCKER, MCQUISTON, STARK AND BAROWSKY; NAYES – NONE) TO ACCEPT THE CONSENT AGENDA AS PRESENTED.**

Chairman Barowsky recessed the meeting at 4:00 p.m. until 8:30 a.m. August 2, 2019.

Meeting reconvened at 8:30 a.m. on August 2, 2019 at 1365 N Orchard St Suite 172 Boise, ID 83706 Board Chairman Bob Barowsky, Board member Wayne Hunsucker, Board member Louise Stark, Board member George McQuiston, Board Attorney Roger Hales, Prosecuting Attorney Mike Kane, Executive Director Lori Thomason, Education and Enforcement Chief Randy Wadley and Office Supervisor Amanda Harper.

IDFG UPDATE – Brad Compton, Regional Supervisor with the Idaho Department of Fish and Game (IDFG), appeared before the Board and gave an update. **Atta Boy** – Doug Peterson, the Regional Conservation Office in the Upper Snake River District, recognized the Board's enforcement participation during an enforcement saturation that happened in Region 6. **Direction for Animal Damage Control Board** - By Idaho Statute, IDFG transfers \$100,000 to the Animal Damage Control Board for work as directed by the IDFG Commission. \$50,000 of that money is being used in support of the Memorandum of Understanding (MOU) that the Commission has with the Animal Damage Control Board, who take the lead on lion, black bear, and waterfowl depredation. The remaining \$50,000, for this upcoming year, was split with \$25,000 going towards wolf, lion, and bear work in game management zones or units that are under objective, and the other \$25,000 is to address pelican conflicts primarily in the Southeast and the Magic Valley. **Release of the Big Horn Sheep Auction and Lottery Tags** – The big horn sheep auction tag went to the national chapter of the Wild Sheep Foundation and the big horn sheep lottery tag went to the Idaho chapter of the Wild Sheep Foundation. **Non-Resident Deer and Elk Tag Quotas** - The non-resident deer and elk tag quotes had no change from what has been historically set. The Commission is interested in moving forward with the ability to limit non-residents in general hunt units. **Outfitter Set Aside** – The outfitter set aside is a subset of non-resident tags. There was no change from what has been historically been. The Commission had a discussion as to why so many outfitter set aside tags were sent back, and it was identified that it was due to outfitters taking hunters that had their own tags. **Minimum Age for Mentored Hunters to Hunt Turkey** – Because turkeys are a species requiring a tag upon harvest, hunters must be ten or older but through the mentor hunting program hunters can start hunting at age eight and nine without a license. **Designation of Locations Requiring Upland Game Permits** - Upland game permits are required on Wildlife Management Areas (WMA) where pheasant are stocked. The permits are good for six pheasants. Once you harvest six pheasants, you can purchase another permit. This is a way to help offset the cost of the pheasant stocking program. There is interest by the Commission to expand stocking of pheasants in areas outside the WMA's. This would give greater flexibility and the ability to require permits anywhere IDFG would have interest in stocking pheasants. **Ban on Import of Live Mule Deer, White-tailed Deer, Moose, and Wild Origin Elk** – This is a repeat of a rule the Commission adopted in 2019 but did not make it through the Legislature. The concern expressed by the elk hunting industry is that the wording might affect their businesses. There was clarification to indicate this rule only applies to wildlife and it is set to go through the upcoming Legislative session. **Waiting Period for Controlled Hunt Applicants to Purchase General Season Big Game Tags in Capped Zone/Units** – The Sawtooth Zone is in high demand for tags as evidenced by them selling out in less than ten minutes. There has been extensive scoping with the public. The Elk Management Plan that was recently adopted by the Commission clearly states the Sawtooth needs to be managed for friends and family general hunt opportunities. Survey results show that a controlled hunt option is not popular. The Commission is committed to keeping the Sawtooth a general hunt zone and will try to adopt a rule that helps reduce the demand. The rule that is being talked about is that if you apply for an elk controlled hunt you are not eligible to purchase an elk capped zone tag within a certain number of days. **Limits for Nonresident Participation in General Season Big Game Hunts** – The Commission adopted language that gave them

the discretion to restrict no less than 10% of the average hunter participation for nonresidents. For this rule to be fully implemented, the department needs to adopt a working licensing system, and the department needs statutory authority to adjust nonresident fees to offset any loss that may occur. The Commission will be submitting proposed legislation this upcoming session. **Gear Requirements on Snares** – There was a proposal to eliminate the diverter on wolf trap snares at the request of trappers and the Foundation for Wildlife Management because they believe the diverters are a hinderance to effectively trap wolves. The department withdrew this as an action item at the July 2019 Commission meeting due Administrative Procedures Act requiring a meeting should anyone request one. Two groups requesting a meeting which will be held. The intent is to bring a final recommendation by August 12 by conference call. **Upland Game Management Plan** – The upland game management plan passed. **Commission Challenge Grants** – Two years ago a line item was created for \$100,000 that allowed the Commission and Department to establish the Commission Community Challenge Grant Program. This program sets \$10,000 aside for each of the seven regions a Statewide pot of \$30,000. This grant allows sportsman and conservation organizations the ability to apply for the funding. Of the seven applications received in the southwest region, the Department did end up selecting three: Canyon County 4H to develop an archery range out at the Caldwell Gun Club for youth, Idaho State Bow Hunters to purchase archery equipment to give to youth at their annual jamboree, and Trout Unlimited for a proposed project “daylight” Cottonwood Creek. For the Salmon Region the Department awarded the Idaho Trails Association. **Updates on White-Tailed and Mule Deer Management Plans** – The public comment was generally favorable for the white-tailed and mule deer management plans. The intent is to send the final plans to the Commission by mid-August and ask for them to adopt them at the August 26th Commission meeting. These plans don’t facilitate immediate action but do set in motion the Department looking at hunter congestion and what the Department can improve on in the continuation of monitoring the white-tailed and mule deer population in Northern Idaho. **Licensing System** – The Invitation to Participate has been submitted for a new contractor to complete the licensing system. The bids were due July 24th. IDFG is hoping to have a contract signed no later than October of 2019 and then spend the next twelve to fourteen months in developing and testing with a target date of completion for the new licensing system to be December 1, 2020 in order to sell the 2021 licenses.

FEE INCREASE WORKSHOP – The Board discussed with input from the IOGLB Board Attorney, Idaho Outfitters and Guides Association (IOGA), Division of Financial Management (DFM), and the Governor’s Office the possibility of the implementation of a fee increase.

Meeting recessed for lunch at 11:20 p.m. Meeting reconvened at 1:00 p.m. with all listed above present.

NEGOTIATED RULEMAKING HEARING – The Board held a negotiated rulemaking hearing regarding the designation of allocated deer and elk tags and the reauthorization of the Board’s rules implementing the Red Tape Reduction Act and Licensing Freedom Act. Ms. Callahan explained the rulemaking process and the Board’s rulemaking docket. The Board took written comment and heard testimony from those in attendance. The list of commenters and written comments were placed in the rulemaking record.

The next regular Board Meeting date has been set for December 10 and 11, 2019. Additional Board meeting scheduled are August 14, 2019 (Conference Call) and September 27, 2019. Additionally, a public hearing on rules at the Idaho State Capitol was scheduled for September 11, 2019.

With no further business to come before the Board, Board Chairman Bob Barowsky adjourned the meeting at 4:10 p.m., Friday, August 2, 2019.

Board Meeting Minutes – August 1-2, 2019

Bob Barowsky

12-10-19

BOB BAROWSKY, BOARD CHAIRMAN

Date

ATTEST:


LORI THOMASON, EXECUTIVE DIRECTOR

12-10-19

Date